

COMMUNITY HOUSING PROVIDERS (ADOPTION OF NATIONAL LAW) BILL 2012

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Second Reading

The Hon. MATTHEW MASON-COX (Parliamentary Secretary) [3.38 p.m.], on behalf of the Hon. Greg Pearce: I move:

That this bill be now read a second time.

I am pleased to introduce the Community Housing Providers (Adoption of National Law) Bill 2012. The bill contains, as appendix 1, the national law for the regulatory system for community housing providers, as agreed to by governments across Australia. The bill also adopts the national law as a law of New South Wales. Other provisions in the bill substantially respond to and replace the community housing provisions that currently are in part 9A of the Housing Act 2001. The national law demonstrates the confidence that governments have in the viability and future growth of the community housing sector. It provides the mechanisms that give assurance to government, social housing tenants and applicants and the finance sector that community housing providers are well governed and financially sound. The intervention powers it provides for allow community housing registrars to step in if a provider is failing to meet the outcomes specified.

While this initiative is being led by New South Wales, it introduces reforms that benefit the community housing sector across Australia. New South Wales has led this process at the request of the Commonwealth and other States and Territories. This is, in part, due to the excellent reputation of the New South Wales regulatory system and the fact that the proposed national regulatory system captures the key elements of the current New South Wales regulatory system. An inter-government agreement has been developed by all jurisdictions. It sets the broad structure for the ongoing development and operation of the system and commits each signatory to introducing legislation into their own parliament to apply or mirror the national law. The new system is expected to be up and running in 2013. I seek leave to incorporate the balance of my second reading speech in *Hansard*.

Leave granted.

Consultation process

To ensure that the views of stakeholders were understood and taken into consideration, an extensive national consultation process was commenced on the proposed national regulatory system, including a consultation regulation impact statement in late 2011.

Community housing providers, tenant representatives, other peak bodies, support organisations, Indigenous community housing providers and institutional and community banks were well represented as part of this public process. I am pleased there was overwhelming support for the proposed national regulatory framework.

The community housing sector

The community housing sector is increasingly an important player in the provision of social and affordable housing, typically by not-for-profit organisations.

Governments across Australia, including New South Wales, have pursued reforms aimed at providing a greater role in the provision of social and affordable housing by the community housing sector.

The community housing sector in New South Wales currently manages over 26,000 properties, which account for over 17 per cent of the total New South Wales social housing stock. While the sector is diverse in size and how it operates, its growth in recent years is undeniable. Since 2007, the community housing sector has more than doubled in size.

Investment in community housing has a range of benefits, including a better return on government investment than if undertaken directly through the public housing system. Non-government providers have the capacity to attract Commonwealth Government subsidies and philanthropic donations and they enjoy tax benefits. They are also able to leverage private funds against the stock that they own. This brings additional properties into the portfolio and allows the properties to be maintained at an appropriate standard.

This also means community housing providers are well placed to participate in a range of redevelopment and asset renewal opportunities, including social housing estate redevelopments.

The community housing sector is also able to leverage a variety of social benefits, by virtue of their size, flexibility and local connectedness, and through harnessing the expertise and innovation of the non-government sector. Typically, community housing tenants report a higher level of satisfaction with the services they receive.

As Minister I have met with a number of high-performing community housing providers. These are sophisticated social enterprises undertaking a complex range of commercial activities. As they increasingly shift into property procurement and construction, in partnership with a range of private sector organisations, the levels of financial and other risks that they manage grows. It is appropriate, therefore, that a regulatory system is in place to provide assurance to all stakeholders in relation to the governance and financial health of these organisations.

Benefits seen by stakeholders

The benefits of the proposed regulatory system are seen by a range of stakeholders, including the finance industry. The public consultation processes that took place in relation to this proposal included a national workshop that was held with representatives from the institutional arms of the major Australian banks in November 2011.

The bankers highlighted that the national system matched the national approach to institutional banking and will remove uncertainty about robustness and consistency of regulatory controls across different state and territories.

Finance sector representatives also recognised that the national regulatory system will:

- enhance the confidence of institutional bankers to provide private finance for community housing;

- improve the cost of borrowing by creating a potential "national market" for lenders; and
- provide nationally consistent standards that can be used to assess the creditworthiness of community housing providers.

Details of the Bill

I will now outline the detail of the adoption bill and the national law. The Community Housing Providers National Law 2012 provides for a national system of registration, monitoring and regulation of community housing providers.

It provides for:

- a single national Register of Community Housing Providers;
- a national regulatory code;
- the appointment, roles, functions and responsibilities of registrars including their enforcement powers; and
- the registration of community housing providers.

The national regulatory system, through the national law and through the adoption Act in New South Wales, retains the important separation that is in place currently in New South Wales between policy and investment decisions and the regulation of providers.

The regulatory arrangements and other controls set out in the adoption Act provide the mechanisms for this Government to use to protect existing and any future investment in the community housing sector in New South Wales.

While responsibility for strategic policy and regulation for the community housing sector sit with the Minister for Family and Community Services, future decisions that involve vesting of further Land and Housing Corporation properties which have been transferred to the Department of Finance and Services will need to be jointly made by Minister Goward and me.

Minimal changes to the powers of government

There are minimal differences between the current New South Wales regulatory system and the proposed national system. Both:

- protect government's current and future investments in community housing providers;
- articulate overarching principles and are outcome based; and
- allow regulatory oversight proportionate to the provider's risk profile.

The current regulatory arrangements for community housing providers were introduced through amendment to the Housing Act in 2007. The provisions relating to the transfer of title and protection of the Government's investment were passed in 2010. On both occasions the

Coalition supported the proposed measures.

The main difference between the current New South Wales regulatory system and the proposed national system is the introduction of extra powers in the national law that enhance the enforcement and intervention powers of registrars in cases of non-compliance with the national law.

These extra enforcement powers will provide further protections for Government around its investment in community housing.

Registrars will work cooperatively with community housing providers to resolve non-compliance issues and with funders and policy setters in the event that the non-compliance cannot be resolved.

Specifically, under the national law a primary registrar is able to issue formal binding instructions to a registered housing provider to address any matter that is the subject of a notice of non-compliance with the regulatory code as one of a suite of possible regulatory interventions.

The national law also provides that the primary registrar for a community housing provider can appoint a statutory manager. The manager can conduct such affairs and activities of the provider as relate to the community housing "business" of a provider in order to bring a provider into compliance with the regulatory code.

The appointment of the statutory manager would be a last resort. It can only take place under exceptional circumstances, such as when a notice of cancellation has been issued or the registrar is of the view that the provider has failed to comply with the legislation or binding instructions and failure to comply is serious and requires urgent action.

Regulatory Impact

Given the similarities between the proposed national regulatory system and the current New South Wales regulatory arrangements, it is not envisaged there will be any extra regulatory impact on business and the community in New South Wales beyond the minimal impact associated with the transition to the new system.

Other elements of the Adoption Bill

Apart from applying the national law in New South Wales, the adoption bill contains other provisions that simply substantially replicate and replace the community housing provisions of the NSW Housing Act 2001 which seek to protect government investment in the sector in New South Wales.

Minor amendments reflect the changed roles of the Department of Family and Community Services and the Department of Finance and Services as a result of the transfer of the Land and Housing Corporation to the Department of Finance and Services.

The existing protections that are carried forward into the bill include, for example, the ability for the New South Wales government to register an interest on the title of any property it may transfer and the requirement for community housing providers to enter into a binding

community housing agreement when in receipt of this investment.

Conclusion

The New South Wales Government recognises the important part that community housing plays in the social housing system.

The New South Wales Government has led the development of the National Regulatory System for Community Housing Providers, helping to develop a national regulatory system, which is appropriate to ensure the growth and viability of the community housing sector.

I commend the bill to honourable members.